

# REGISTER



*South Dakota Legislative Research Council*

*Volume 37*

*Tuesday, 8:00 a.m., September 7, 2010*

**NOTICES OF PROPOSED RULES:** (The date in parentheses is the date the rules were filed in the Legislative Research Council.)

***Department of Revenue and Regulation: Real Estate Commission:*** (September 3, 2010) intends to amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state. The general authority for these rules, as cited by the commission, is 36-21A-84, 36-21A-89, and 36-21A-130.

A public hearing will be held in Meeting Room A of the Holiday Inn Express, 110 East Stanley in Ft. Pierre, South Dakota, at 8:30 a.m. CDT on October 7, 2010. A copy of the proposed rules may be obtained without charge from and written comments sent to the South Dakota Real Estate Commission, 221 W. Capitol, Suite 101, Pierre, SD 57501. Written comments must be received on or before October 5, 2010, to be considered. This hearing is being held in a physically accessible place. Persons who have special needs for which the commission can make arrangements are asked to call (605) 773-3600 at least 48 hours before the hearing.

## **FILINGS IN THE SECRETARY OF STATE'S OFFICE:**

**DEPARTMENT OF AGRICULTURE: SOUTH DAKOTA ANIMAL INDUSTRY BOARD:** 12:68:01:01; 12:68:03:07, 12:68:03:11; 12:68:04:01.01, 12:68:04:05, 12:68:04:09, 12:68:04:11, 12:68:04:32, 12:68:04:37; 12:68:06:05, 12:68:06:11; 12:68:07:03; 12:68:09:07, 12:68:09:16; 12:68:10:02; 12:68:12:04; 12:68:13:02, 12:68:13:04, 12:68:13:13, 12:68:13:15, 12:68:13:18, 12:68:13:37; 12:68:14:01; 12:68:16:01, 12:68:16:02; 12:68:17:01, 12:68:17:01.01, 12:68:17:04, 12:68:17:11, 12:68:17:12; 12:68:18:03, 12:68:18:05, 12:68:18:07; 12:68:19:01, 12:68:19:09; 12:68:20:04; 12:68:21:01; 12:68:23:02, 12:68:23:11; 12:68:24:01, 12:68:24:04; 12:68:25:01; 12:68:28:01, 12:68:28:02, and 12:68:28:04.

History-Notice: 36 SDR 221, June 28, 2010  
Hearing: July 13, 2010  
Filed: August 31, 2010  
Effective: September 20, 2010

**DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE:** 20:06:16:04; 20:06:39:43 to 20:06:39:56, inclusive, Appendix B; 20:06:40:29 to 20:06:40:41, inclusive, and Appendix B.

History-Notice: 37 SDR 9, July 19, 2010  
Hearing: August 10, 2010  
Filed: August 31, 2010  
Effective: September 20, 2010

**DEPARTMENT OF LABOR: STATE PLUMBING COMMISSION:** 20:53:03:07; 20:53:10:02, 20:53:10:03; and 20:54:02:01.

History-Notice: 36 SDR 213, June 21, 2010  
 Hearing: July 22, 2010  
 Filed: September 1, 2010  
 Effective: September 21, 2010

**DEPARTMENT OF REVENUE AND REGULATION: BUSINESS TAX AND MOTOR VEHICLES:** 64:06:01:68, 64:06:01:68.01, 64:06:01:71 to 64:06:01:73, inclusive; 64:06:02:06.03, 64:06:02:98, 64:06:02:99; and 64:16:01:01.

History-Notice: 37 SDR 13, July 26, 2010  
 Hearing: August 13, 2010  
 Filed: September 1, 2010  
 Effective: September 21, 2010

**DEPARTMENT OF REVENUE AND REGULATION: DIVISION OF INSURANCE:** 20:06:53:01 to 20:06:53:67, inclusive, and Appendices A - D, inclusive.

History-Notice: 36 SDR 203, June 7, 2010  
 Hearing: June 29, 2010  
 Filed: September 2, 2010  
 Effective: September 22, 2010

### **Executive Appointments:**

**Ralph A. Kemnitz**, Philip, was appointed on August 30, 2010, to the **South Dakota Commission on Gaming**, to replace Rita Thompson, effective August 30, 2010, and shall continue until April 14, 2013.

**Fay M. Jandreau**, Kimball, was appointed on August 31, 2010, to the **Statewide One-Call Notification Center Board**, to replace Jerry Schroeder, effective August 31, 2010, and shall continue until October 31, 2010.

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Revenue and Regulation, and the Department of Labor for Article 47:03.

### **REMINDER OF HEARINGS SCHEDULED**

9-10-2010	Revenue and Regulation: Property and Special Taxes	Amend Property and Special Taxes rules to update manuals to current version, ensure all Certified Appraiser Assessors receive updated training in the ethical requirements for their job, allow companies to compete in providing the cost manuals that are used to assess real property, update real estate abstract classes and remove NA-Z and NA-Z1 classes due to the repeal of NA-Z statutes and change to productivity valuation of agricultural land, change rules due to a change in law relating to the calculation of NA-Z properties and productivity valuation of agricultural land, remove a cross-reference due to a change in the law, allow for the uniform assessment of
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		agricultural land limited in use because of a permanent easement, contract with School and Public Lands, or certain ordinances, allow retailers to sell any size bottle of alcohol, and make certain rules that pertain to malt beverages more consistent with similar rules that affect all other alcoholic beverages; 37 SDR 34.
9-14-2010	Agriculture: Division of Agricultural Services	Amend a rule to decrease the raw milk assessment fee; 37 SDR 29.
9-15-2010	Revenue and Regulation: Commission on Gaming	Amend Racing rules to eliminate the requirement that the paddock judge inspect the horses' shoes and that horses wear head numbers when racing, clarify the procedure used when a race horse owner changes trainers, establish that a jockey fee is earned at the time the jockey enters the paddock for the race, establish that the fee paid to a jockey available to ride the race but who has been removed at the election of the owner or trainer equals the fee paid to the jockey who actually rides the horse, allow acceptance of race entries for races when the original or photocopy of the horse's registration papers are not on file at entry time, clarify that a race track may require identifying tattoos on all horses on the track, allow the use of furosemide (lasix) in race horses when placed on the bleeder list, clarify the requirements and procedures for administering furosemide (lasix) to horses, correct an inconsistency with ARSD 20:04:27:13.09, reflect current wagering equipment capabilities, allow for superfecta wagering at horse races in South Dakota, and correct an inconsistency with ARSD 20:04:33:26(8); and amend Gaming rules to allow for a variation of play for blackjack called Blackjack Switch, allow for a variation of poker known as Ultimate Texas Hold 'em Progressive, allow for a variation of poker known as Caribbean Stud Poker Progressive, allow for variations of poker known as Four-Card Poker Progressive and Crazy 4 Poker Progressive, allow for a variation of poker known as Let It Ride Progressive, allow for a variation of poker known as Mississippi Stud Progressive, allow for a variation of poker known as Texas Hold

		'em Bonus Poker Progressive, clarify procedures used in casino management of progressive slot machine meter sign reconciliation and underpayments to patrons, promulgate application for licensure and reporting requirements for a new category of licenses known as gaming property owners licenses, allow the Commission to require additional persons to be licensed when organizations hold gaming property owners licenses, and clarify that organizations holding gaming property owners licenses be considered persons for purposes of laws that restrict a person from holding more than three retail gaming licenses; 37 SDR 33.
9-15-2010	Environment and Natural Resources: Environmental Services	Adopt rules to implement South Dakota's Regional Haze Program for the two Class I areas (Badlands and Wind Cave National Parks); 37 SDR 34.
9-15-2010	Bureau of Personnel: Career Service Commission	Amend a rule to add two additional categories of leave related to military leave to the list of reasons for which eligible employees may take family and medical leave; 37 SDR 34.
9-28-2010	Education: Board of Education	Amend rules to provide valid and reliable testing procedures for any school district choosing to write their own end-of-course exams; 37 SDR 35.
9-30-2010	Public Safety: South Dakota 911 Coordination Board	Adopt a rule to establish alternative compliance methods for the requirement contained in ARSD 50:02:04:02 which requires all public safety answering points to be staffed with two 9-1-1 telecommunicators on duty at all times; 37 SDR 41.
10-7-2010	Revenue and Regulation: Real Estate Commission	Amend rules to permit a licensee to receive advance compensation if the compensation is placed in the broker's trust account until completion of the service performed, authorize the commission to issue consent orders, define auction terms, establish listing requirements, advertising guidelines and procedures when selling real estate at auction, require auctioneers to retain certain records, prohibit auctioneers from performing certain acts, distinguish licensees who are permitted to conduct auctions, and allow an inactive nonresident licensee to renew without filing a certification of licensure from the licensee's resident state; 37 SDR 47.

10-14-2010	Education: Professional Administrators Practices and Standards Commission	Amend a rule to allow the Professional Administrators Practices and Standards Commission to address ethical violations occurring three years prior to the filing of a complaint; 37 SDR 41.
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### **RULES REVIEW COMMITTEE MEETINGS**

The next meeting of the Interim Rules Review Committee will be held Tuesday, September 28, 2010, in Room 414, Fourth Floor, of the State Capitol. The committee chair has set the following tentative meeting schedule for the 2010 interim: November 17, and December 20.

**Note:** An updated version of the Administrative Rules Guide to Form and Style is available on the Legislative Web site at <http://legis.state.sd.us/rules/index.aspx>.

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